

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05CV363-MU

MEINEKE CAR CARE CENTERS, INC.,)

Plaintiff,)

vs.)

A.B. FREEMAN ENTERPRISES, LLC and)
ANTHONY B. FREEMAN,)

Defendants.)
_____)

ORDER

This matter is before the court upon Plaintiff's Verified Complaint and Motion for Preliminary and Permanent Injunction, filed August 19, 2005, and Defendants' Motion to Dismiss, filed September 23, 2005. Plaintiff's Verified Complaint alleges three causes of action: a breach of contract claim, a claim for trademark infringement, and a claim for attorney's fees under the Franchise Agreement at issue. In their Motion to Dismiss, Defendants contend that the trademark infringement claim is moot, as they have ceased using any Meineke trademarks. If Defendants are correct, and the trademark infringement claim is indeed, moot, this court is inclined to dismiss this action for lack of subject matter jurisdiction. Therefore, the parties are directed to report to the court, in writing, within ten days, what their current contentions are with regard to whether Defendants have ceased using Meineke trademarks. If the parties are still in dispute regarding this issue, the court will schedule a hearing on the Motion to Dismiss and Motion for Preliminary Injunction.

IT IS SO ORDERED.

Signed: January 26, 2006



Graham C. Mullen
United States District Judge

